

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

IN RE: MICHAEL S. ) No. 19 B 28687  
HELMSTETTER, ) Chicago, Illinois  
 ) February 15, 2022  
 ) 1:30 p.m.  
Debtor. )

TRANSCRIPT OF TELEPHONIC PROCEEDINGS  
BEFORE THE HONORABLE JACQUELINE P. COX

APPEARANCES:

For Mr. Michael ) Mr. Nick Tancredi  
Helmstetter )  
For Chapter 7 Trustee: ) Mr. David Herzog and  
 ) Mr. Gregory Stern  
For Ms. Benitta Berke: ) Ms. Cindy Johnson  
For Landlords: ) Mr. Whitman Brisky  
For World Business ) Mr. Jeffrey Paulsen  
Lenders: )  
For Santander: ) Ms. Debra Babu

Court Reporter: Paula O'Driscoll, CSR  
United States Courthouse  
219 South Dearborn Street,  
Room 661  
Chicago, Illinois 60604

1 THE CLERK: Taking up the 1:30 matters,  
2 Michael Helmstetter.

3 MR. HERZOG: Good afternoon, Your Honor.  
4 David R. Herzog, Chapter 7 trustee.

5 MR. STERN: Good morning, Your Honor.  
6 Gregory Stern on behalf of the Chapter 7 trustee.

7 MS. JOHNSON: Good afternoon, Your  
8 Honor. Cindy Johnson on behalf of Benitta Berke,  
9 one of the debtors.

10 MR. BRISKY: Good afternoon, Your Honor.  
11 Whitman Brisky on behalf of the landlords.

12 MR. PAULSEN: Good afternoon, Your  
13 Honor. Jeffrey Paulsen for World Business Lenders.

14 MR. TANCREDI: Good afternoon, Your  
15 Honor. Nick Tancredi on behalf of debtor.

16 MS. BABU: Debra Babu, on behalf of  
17 Santander.

18 THE COURT: Where are we in this matter?

19 MR. STERN: If you are not going to  
20 accept the trustee's rejection of the two bids  
21 which you have ordered the trustee to sell to  
22 accept, then we are here for entry of an order.

23 Trustee disagrees --

24 THE COURT: One order or two orders?

25 MR STERN: One order, Judge. We could

1 break it up into two.

2 The trustee filed a draft order.

3 That was docket number 189. I believe Mr. Paulsen  
4 and Ms. Johnson filed another competing draft. I  
5 am not sure what docket number that one is.

6 MS. JOHNSON: It is 192, Your Honor.  
7 The order was not circulated to us before trustee  
8 filed their draft, so we filed a competing draft  
9 for what we thought was appropriate.

10 THE COURT: 192 you say?

11 MS. JOHNSON: That is correct.

12 THE COURT: I have seen 188 and 189.

13 MS. JOHNSON: It is docket 192. Your  
14 clerk actually called me about it before the last  
15 hearing, I believe.

16 THE COURT: I don't see it. Look at the  
17 orders at 188 and 189. Maybe the numbers are mixed  
18 up.

19 MS. JOHNSON: I don't think so.

20 MR STERN: 188 was an order that you have  
21 already entered.

22 THE COURT: 188 is already entered? How  
23 come it was not on the docket?

24 MR STERN: That was the sale of two  
25 causes of action; one to Terry Gaouette, the

1 accountant, and the other one to 2401 South  
2 Michigan.

3 THE COURT: All right, but I don't see  
4 this other docket. Maybe it is somewhere else.

5 MR STERN: I am not looking at the  
6 docket. I have a copy of their competing draft.

7 THE COURT: I don't see it. Are you all  
8 looking at the docket? I am trying to --

9 MS. JOHNSON: I am trying to pull it up  
10 right now, Your Honor.

11 THE COURT: Do you remember what  
12 happened to these orders? I thought I signed 188.

13 MR STERN: You did.

14 THE COURT: Do you have a copy of it?

15 MR STERN: Yes, I do. It is docket  
16 number 195.

17 THE COURT: My docket only goes up to  
18 189. I will tell you what, let's pass it. I am  
19 looking at Helmstetter.

20 MR STERN: I have it right here as 195.

21 MS. JOHNSON: Your Honor, I am --

22 THE COURT: Pass it and give me time to  
23 figure out what is going on.

24 MS. JOHNSON: The docket does go up to  
25 198, Your Honor.

1 THE COURT: There is something going on.  
2 Maybe I will refresh and figure it out. I don't  
3 know.

4 MR STERN: We will wait.

5 THE COURT: I will get back to you all  
6 once I figure out what the problem is.

7 (Whereupon, a short recess was  
8 taken)

9 THE CLERK: Recalling line 31, Michael  
10 Helmstetter.

11 THE COURT: Appearances on the record  
12 again. I am sorry.

13 MS. JOHNSON: Good afternoon, Your Honor.  
14 Cindy Johnson on behalf of Benitta Berke.

15 THE COURT: All right.

16 MR. STERN: Gregory Stern on behalf of  
17 the Chapter 7 trustee who is with us here today,  
18 David Herzog.

19 MR. TANCREDI: Nick Tancredi on behalf  
20 of debtor, Your Honor.

21 MR. BRISKY: Whitman Brisky on behalf of  
22 the landlord.

23 THE COURT: Okay, I see the order at  
24 docket, I think it is, 195. The sale of the 2401  
25 South Michigan building and Terry Gaouette; is that

1 correct?

2 MR. STERN: No, no, no.

3 THE COURT: I am sorry?

4 MR. STERN: I am sorry, what number did  
5 you say, Judge?

6 THE COURT: Just a second. 195.

7 MR. STERN: Yes, that is correct.

8 THE COURT: So what other orders do we  
9 need today?

10 MR. STERN: We need to reconcile whether  
11 you are going to hear 188 or 192.

12 THE COURT: What is 188?

13 MR. STERN: I am sorry, 189. If the  
14 order -- 189 is the order approving the sale of  
15 designated causes of action of the debtor's estate  
16 against Benitta Berke and World Business Lenders  
17 free and clear of interest and incumbrances  
18 pursuant to 11 USC 363(F) that I drafted and filed.

19 THE COURT: Right. Is there a competing  
20 order?

21 MR. STERN: There is. It is Ms.  
22 Johnson's same title of the order. It is docket  
23 number 192, I believe.

24 THE COURT: It is 198 or 192.

25 MS. JOHNSON: No, Your Honor. I filed a

1 docket entry with 190 because I had the wrong  
2 amount in there for Mr. Paulsen's client. I copied  
3 it from the trustee which had his bid amount wrong.

4 THE COURT: Ms. Johnson, you are asking  
5 me to sign 192?

6 MS. JOHNSON: That is correct, Your  
7 Honor.

8 THE COURT: All right. Mr. Stern?

9 MR. STERN: Okay. We are asking Your  
10 Honor to sign 189. The trustee could agree to  
11 paragraph 1 of the competing order. However, he  
12 has severe -- he doesn't believe that the  
13 subsection E or I of the introductory paragraph is  
14 appropriate for inclusion in this order.

15 THE COURT: What exactly are you  
16 objection to?

17 MR. STERN: We are objecting to sub E  
18 which says: Several arguments were made in  
19 response to the objections, and specifically  
20 trustee stated that trustee was not to determine  
21 the high bidder but to make recommendations to this  
22 Court which would then decide the winning bidder.  
23 We don't believe that that is appropriate; and we  
24 believe that if anything should be included, it  
25 should be that the record speaks for itself rather

1       than us trying to impose our recollection and --

2               THE COURT: What about just saying  
3       several arguments were made in response to the  
4       objection and then deleting "and specifically" all  
5       the way up to F?

6               MR. STERN: The trustee could live with  
7       that too.

8               THE COURT: Any objection to that, Ms.  
9       Johnson?

10              MS. JOHNSON: Well, no, but that isn't  
11       really our recollection. That is what is in their  
12       brief, actually, is what they stated in response to  
13       my written objection, but I suppose if --

14              THE COURT: I think an order should be  
15       as simple as possible but hold on. Okay, that is  
16       what I am going to do.

17                      Go ahead. What else did you  
18       have?

19              MR. STERN: Sub I, Judge --

20              THE COURT: Hold on. The computer is  
21       not letting me change what I want to change.

22              MR. STERN: I could circulate an order  
23       updating everything and submit it to Your Honor.

24              THE COURT: It is Ms. Johnson's order. I  
25       could probably have her do it but hold on.



1                               What else did you suggest, Mr.  
2     Stern?

3                               MR. STERN: I suggest that we strike I  
4     and J.

5                               THE COURT: Does I reflect what  
6     happened?

7                               MR. STERN: Well, I is okay. J should  
8     be stricken.

9                               THE COURT: Why should J be stricken?

10                              MR. STERN: Well, I am not sure that  
11     that was your oral statement.

12                              THE COURT: I kind of remember asking  
13     that. Maybe I didn't make a finding.

14                              MR. STERN: You are overruling the  
15     trustee's rejection. I don't disagree with that,  
16     but I think that J should be stricken.

17                              THE COURT: Ms. Johnson --

18                              MR. STERN: The record speaks for  
19     itself, Your Honor.

20                              THE COURT: Anything further on that,  
21     Ms. Johnson?

22                              MS. JOHNSON: Yes, Your Honor. It is  
23     not saying that the Court found anything. It is  
24     just saying that the Court made an oral statement,  
25     and then the trustee -- and therefore, you told

1       them they couldn't reject the bids. I think that  
2       is what you said.

3               THE COURT: Mr. Stern, that is what I  
4       remember. I don't have the transcript. I think I  
5       ordered the transcript. I don't know. I don't  
6       have -- I am going to overrule your objection, Mr.  
7       Stern. I will leave J in.

8               Anything else, Mr. Stern?

9               MR. STERN: Yes. In paragraphs 2 and 4  
10      I would like -- the trustee would like you to say:  
11      If ordered and directed to sell.

12              MS. JOHNSON: No objection.

13              THE COURT: What else?

14              MR. STERN: That is all the trustee's  
15      comments.

16              THE COURT: Any objection to those two  
17      changes, Ms. Johnson?

18              MS. JOHNSON: No, and this is Mr.  
19      Paulsen's order as well. I suppose he could weigh  
20      in if he has a problem with it.

21              THE COURT: I just realized I had not  
22      called on Mr. Paulsen.

23              Anything further, Mr. Paulsen?

24              MR. PAULSEN: No, Your Honor.

25              THE COURT: All right, how soon can you

1 make these changes, Ms. Johnson or should I do  
2 them?

3 MS. JOHNSON: I can do them right after  
4 court and send them around. I just want to make  
5 sure they are correct.

6 We are taking out in E: After  
7 several arguments were made in response to the  
8 objection all the way through the beginning of F  
9 and then --

10 THE COURT: You are taking out "and" all  
11 the way up to F.

12 MS. JOHNSON: We are leaving I and J in?

13 THE COURT: I and J are fine.

14 MS. JOHNSON: Numbers 2 and 4 we are  
15 just adding the words "and directed" after  
16 "ordered"?

17 THE COURT: Exactly. Why don't I take a  
18 ten minute break. Ms. Johnson, see if you can make  
19 those changes and get it on the docket. I will see  
20 if I can get it signed.

21 MS. JOHNSON: I will do it right now.

22 THE COURT: Let's try and get this  
23 settled today. We will take a ten minute break.

24 (Whereupon, a short recess was  
25 taken)

1 THE CLERK: We are continuing with the  
2 matter of Michael Helmstetter.

3 MS. JOHNSON: Good afternoon again, Your  
4 Honor. Cindy Johnson on behalf of Benitta Berke.

5 MR. STERN: Gregory Stern again on  
6 behalf of the trustee. Mr. Herzog is not -- I  
7 don't believe he is signing in.

8 THE COURT: All right, do we have the  
9 order?

10 MS. JOHNSON: This is docket 199.

11 THE COURT: Let's see. Can you pull it  
12 off? Maybe I should refresh. I see it. Can you  
13 print it?

14 Anything further, Mr. Stern?

15 MR STERN: No, ma'am.

16 THE COURT: All right.

17 What else do we have coming up in  
18 Helmstetter?

19 MR STERN: What else do we have coming  
20 up?

21 THE COURT: Any other court hearings?

22 MR STERN: Can you give me just a second,  
23 Judge?

24 THE COURT: While I have you all here --

25 MR. TANCREDI: Your Honor, this is Nick

1 Tancredi on behalf debtor. We have a status  
2 hearing, I believe, on the 22nd on the adversary  
3 action involving Nissan. That is next week on the  
4 22nd, Your Honor.

5 THE COURT: All right. The order at  
6 docket 199 has been entered over the objection of  
7 the trustee.

8 MR STERN: Judge, in terms of the case,  
9 we have the status on the Pomerantz claim objection  
10 and the Pomerantz adversary complaint on the 15th  
11 of March.

12 THE COURT: Hold on. Let me just make  
13 sure all of this stuff is on the docket.

14 MS. JOHNSON: Your Honor, may I --

15 THE COURT: Hold on. Let me just check.  
16 I see the Pomerantz adversary on, I think that is,  
17 April -- I mean, March 15th.

18 MR STERN: Yes, ma'am.

19 THE COURT: All right. Go ahead. That  
20 is an adversary.

21 MR STERN: Okay. That is the only other  
22 date that is scheduled before Your Honor.

23 THE COURT: Mr. Tancredi has something  
24 on February 22nd.

25 MR STERN: He might.

1 MR. TANCREDI: That is a status.

2 THE COURT: The docket is acting a  
3 little wobbly every now and then. Hold on.

4 Yes, we have adversary 191001.  
5 It is up next Tuesday to set a trial date, and then  
6 we also have -- Is that what we have, Mr. Tancredi?

7 MR. TANCREDI: I know it was a status,  
8 Your Honor.

9 THE COURT: Yes, it is a status. Okay,  
10 I will see you all next Tuesday.

11 MR STERN: Do you want to know about the  
12 balance of the case, Judge?

13 THE COURT: I am willing to hear  
14 anything you have to say about this case. Go  
15 ahead.

16 MR STERN: Well, the only other thing  
17 that is really pending is the appeal before the 7th  
18 Circuit is Judge Pallmeyer's district court  
19 decision upholding Your Honor's ruling in a  
20 settlement.

21 The trustee's brief was due to be  
22 filed, I believe, tomorrow. We have requested a  
23 two-week extension because of unforeseen events in  
24 the office.

25 Mr. Tancredi has, I believe --

1 THE COURT: I hope everybody is okay in  
2 your office.

3 MR STERN: Mr. Quaid is indisposed at the  
4 moment.

5 THE COURT: Sorry to hear that.

6 MR STERN: We are waiting for him -- He  
7 was the primary author of the brief, and he is not  
8 available to us now since last Friday, so we are  
9 working on it.

10 Mr. Tancredi, I believe,  
11 acknowledged our plight and agreed to the  
12 extension.

13 MR. TANCREDI: That is correct.

14 THE COURT: All right.

15 MR. STERN: I think that is pretty much  
16 all of this case.

17 THE COURT: I think so. Thank you all  
18 very much.

19 MR STERN: Yes, ma'am.

20 (Which were all the proceedings had  
21 in the above-entitled cause,  
22 February 15, 2022, 1:30 p.m.)

23 I, PAULA O'DRISCOLL, CSR, DO HEREBY CERTIFY THAT  
24 THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT OF  
25 PROCEEDINGS HAD IN THE ABOVE-ENTITLED CAUSE.)(s/s)